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**UTAH LABOR COMMISSION**

**JONNEL JO STONE,**

**Petitioner,**

**vs.**

**GEORGE T. WELDON and  
WORKERS COMPENSATION FUND,**

**Respondents.**

**ORDER DENYING REQUEST  
FOR RECONSIDERATION**

**Case No. 07-0327**

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George T. Weldon and its insurance carrier, Workers Compensation Fund (referred to jointly as “Weldon” hereafter) ask the Utah Labor Commission to reconsider its prior decision dismissing as untimely Weldon’s motion for review in this workers’ compensation proceeding.

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Annotated § 63-46b-13.

**BACKGROUND AND ISSUES PRESENTED**

Judge Hann issued her decision awarding workers’ compensation benefits to Jonnel Jo Stone on December 3, 2007. That same day, a copy of Judge Hann’s decision was mailed to Weldon and its insurance carrier at their correct mailing address. Thirty one days later, on January 3, 2008, the Labor Commission received Weldon’s motion for review of Judge Hann’s decision. On February 15, 2008, the Commission dismissed the motion for review as untimely. Specifically, the Commission concluded that, because Weldon had not filed the motion for review within the 30-day period allowed by law, the Commission had no jurisdiction to consider the merits of the motion.

In asking the Commission to reconsider, Weldon argues the Commission’s continuing jurisdiction over workers’ compensation claims gives the Commission authority to consider Weldon’s motion for review, even if that motion was untimely. Alternatively, Weldon argues the Commission should retroactively extend the 30-day filing period and deem Weldon’s motion for review to be timely.

**DISCUSSION**

Timely filing as a jurisdictional prerequisite. Weldon points out that § 34A-2-420(1) of the Utah Workers’ Compensation Act grants the Commission continuing jurisdiction over workers’ compensation cases. Weldon contends that this continuing jurisdiction allows the Commission to consider Weldon’s motion for review, even if that motion was untimely. However, § 34A-2-420(1) also requires the Commission to exercise its continuing jurisdiction in accordance with the provisions in Part 8 of the Workers’ Compensation Act. Part 8 includes § 34A-2-801(3), allowing a

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party to file a motion for review of an ALJ's decision "within 30 days after the date the decision is issued," and § 34A-2-801(2), which provides that "[u]nless a party . . . appeals the decision of an [ALJ] in accordance with Subsection (3), the [ALJ's] decision . . . is the final order of the commission . . . ." Thus, the Commission's continuing jurisdiction is subject to Part 8's requirements governing the adjudicative process, including the 30-day time limit for filing a motion for review of an ALJ's decision. If that time limit is not satisfied, the ALJ's decision is final and the Commission has no authority to review the decision.

Extending the 30-day filing period for good cause. Weldon also contends that the Commission has discretion to retroactively extend the 30-day filing limit, and that Weldon's error in computing the 30-day filing period is good cause for such an extension.

Assuming without deciding that the Commission has discretion to retroactively extend the 30-day filing period, the Commission finds no sufficient cause to do so in this case. Both the 30-day period for filing motions for review and the method for computing that 30-day period are well-established and commonly known. The Commission does not consider a party's plain error in following these rules to constitute good cause for extending the filing deadline.

**ORDER**

The Commission denies Weldon's request for reconsideration. It is so ordered.

Dated this 31<sup>st</sup> day of March, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may appeal this Order to the Utah Court of Appeals by filing a Petition For Review with that Court within 30 days of the date of this Order.

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